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OFFICE OF PETITIONS

In re Application of
Songnian Li, et al.
Application No. 10/679,727
Filed: October 6, 2003
Attorney Docket No. DP-310006

ON PETITION

This is a decision in response to the petition, filed September 14, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is DISMISSED AS MOOT.

A review of the record discloses that a "Notice of Omitted Items..." was mailed on December 30, 2003, indicating that pages 12, 13 and 16 of the specification were omitted. The notice set a two-month period to either:

- (1) Submit evidence showing that the omitted items were filed, along with a copy of the notice, a petition and the \$130 petition fee; or
- (2) Supply the omitted items and accept the date that such omitted items were filed in the USPTO as the filing date, along with a copy of the notice, a supplemental declaration under 37 CFR 1.63 and 1.64 referring to such items, a petition under 37 CFR 1.182 requesting the later filing date and the \$130 petition fee.

Since applicant did not file a petition under the above options within TWO MONTHS of the date of the notice, the failure to do so was construed as a constructive acceptance by the applicant of the original disclosure of the invention and the application was further processed with a filing date of October 6, 2003, using the application papers present in the USPTO on that date. The application is currently ready for examination. Applicant is reminded that a preliminary amendment must be submitted prior to the first Office action to renumber the pages consecutively and cancel incomplete sentences, etc. caused by the omitted pages.

In view of the above, the petition is unnecessary and no petition fee has been charged to counsel's deposit account, nor is one due.

Sherry D. Brinkley
Petitions Examiner
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for Patent Examination Policy